

IN THE SENATE OF THE UNITED STATES.

MARCH 24, 1880.—Ordered to be printed.

Mr. DAVIS, of Illinois, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 1493.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 1493) entitled "An act defining the duties of the reporter of the Supreme Court of the United States, fixing his compensation, and providing for the publishing and distributing of said reports," have had the same under consideration, and submit the following report:

The provisions of the existing law which the bill repeals require the reporter to print and publish the decisions, and to deliver, within a specified time, 300 copies of each volume of his Reports to the Secretary of the Interior. He is entitled, for his services and the delivery of that number of copies, to an annual salary of \$2,500, when his report of the decisions in any one year constitutes but one volume.

If by direction of the court he prints and publishes more than one volume in any one year he is entitled to an additional compensation of \$1,500.

This has been, in its essential features, our legislation on the subject since the act of March 3, 1817 (5 Statutes at Large, 376). The reporter then received from the Treasury \$1,000, and furnished the government 80 copies of each volume of his Reports. No more were then required for distribution to the judges and other public officers entitled to receive them, and such was the limited number of cases on the calendar that those decided at each term could be embraced in a single volume. The act was a temporary one, expiring by its own limitation three years thereafter. It was continued in force, however, by the acts of May 15, 1820, March 3, 1823, and subsequent acts. By the act of August 29, 1842, the reporter received an increased compensation, but was required to furnish an additional number of copies, the act providing for their distribution to certain designated public officers, increasing the number to be delivered for the use of each house of Congress, and providing that the residue should be deposited in the Library of Congress. The acts of July 23, 1866, and March 2, 1867, contain the provisions embodied in the existing law. (See sections 681, 682, 683, Revised Statutes.)

The bill under consideration provides that the reports shall be printed

by the Public Printer, who, after delivering 300 copies to the Department of the Interior, is to sell the remainder to the public "at a price not exceeding 10 per cent. in addition to the cost of printing and binding" them, and one section provides that no person shall be permitted to purchase them for resale until he shall give a bond in the penal sum of \$1,000, to be approved by the judge of any United States court, with good security, that he will not sell the same at a greater price than the cost of printing and binding, with 25 per cent. added.

The object of our legislation upon this subject has hitherto been, and should continue to be, to insure at the smallest charge to the Treasury the authoritative publication of the decisions of our court of last resort in a substantial and becoming form, at a price not exceeding that of other law works of the same size and quality. The mechanical execution of "Otto's Reports" is equaled by few publications in this country or in England, and is excelled by none. The work is eminently satisfactory to the court and profession, and in point of paper, type, and press-work, is a great improvement upon the Reports of any of his predecessors. The price of the volumes to be hereafter published will be \$3 each, and in view of the style of the work, the number of pages, and its general excellence, is lower than that of any similar work. A table of the prices of the Reports of the several States and of the circuit courts of the United States, which is believed to be entirely accurate, is appended hereto and establishes this fact.

It has been urged in some quarters that should the bill under consideration become a law the members of the legal profession might be able to purchase the work at a lower price. If that result should be accomplished, it would furnish no justification for imposing, as the bill does, an additional burden on the Treasury. It provides the same salary as that to which the reporter is now entitled, should he publish two volumes a year, and by the existing statute the government receives, in that event, 600 copies a year without paying therefor. But there is no reason to suppose that the profession at large can purchase the volumes for less than \$3 each, to which the publishers have now permanently reduced them, as will be seen by the letters hereto appended.

No specific price is named in the bill, and the required bond of the purchaser to whom the volumes are sold by the Public Printer, to prevent the sale at a higher profit than 25 per cent. of the original cost, if it really amounts to anything, will not prove an effectual limitation upon the price of the volumes in the hands of the retail bookseller who resides outside of the city of Washington and its immediate vicinity. The proposed measure will rather tend to enhance their price and diminish their circulation, while it is the interest of the present publishers to extend it as widely as possible. The Court of Claims Reports, now printed at the Government Printing Office, are sold at the law bookstore in this city, at \$5 per volume, and in point of execution are, in every respect, inferior to "Otto's Reports."

The reporter is not furnished by the government with office accommodations, clerical assistance, or stationery. These necessary expenses must be borne by himself. At the time of the appointment of the present incumbent, a rule of the court was adopted forbidding the reporter to practice at its bar, and he is expected to give his undivided attention to the arduous duties of his office, the efficient performance of which requires an accomplished lawyer and scholar. No other is qualified to fill acceptably an office which has been adorned by the learning and culture of Dallas, Wheaton, Black, and other distinguished members of the profes-

sion. For such services the salary provided by the bill is, in view of the expenses to which the reporter is unavoidably subject, grossly inadequate, far less than the nature of the duties should command, or that of any bureau officer of the government, and less than that realized by the reporters in many of the States. Were there no other objections to the bill, this, in the opinion of the committee, is an insuperable objection, one which can only be obviated by imposing an additional burden upon the public Treasury, which should, if practicable, be avoided.

Regarding the subject in all its aspects the committee is of opinion that the proposed change in the existing law is inexpedient, and they recommend the indefinite postponement of the bill.

Comparison of Otto's Reports with other reports, by proportion of size and price.

Report.	Publisher.	Volumes taken as a basis of calculation.	Average number of pages to a volume.	Average number of words to a page.	Average number of words to a volume.	Selling price.	Proportionate price as it would be if the vol. contained as much as Otto's.	Per cent. proportionately dearer than Otto's.
Otto*	Little, Brown & Co	6 vols. now out.	817	430	350,000	\$3 00
Wallacet	W. H. & O. H. Morrison	Last 6 vols.	701	380	270,000	3 00	\$3 88	29
United States Ct. of Claims	do	Last 6 vols.	717	450	325,000	5 00	5 40	80
Miller's Decisions	do	All 4 vols.	844	470	395,000	5 00	4 43	48
McArthur	do	Both vols.	694	440	305,000	5 50	6 30	110
Blatchford	Baker, Voorhis & Co.	Last 6 vols.	614	420	260,000	6 00	8 00	166
Benedict	do	Last 6 vols.	620	390	240,000	8 00	11 50	283
Bissell	Callaghan & Co.	Last 6 vols.	579	396	230,000	6 00	9 00	200
Dillon	Egbert, Fiddler & Co.	All 4 vols.	662	396	265,000	6 00	7 90	163
Sawyer	A. L. Bancroft & Co.	All 4 vols.	761	390	300,000	6 00	7 00	133
Alabama	Joel White	Last 6 vols.	710	490	350,000	5 00	5 00	66
Arkansas	Reporter.	Last 6 vols.	742	340	260,000	5 00	6 70	123
California	S. Whitney & Co.	Last 6 vols.	743	390	290,000	3 50	4 20	40
Colorado	Reporter.	All 3 vols.	723	370	270,000	7 50	9 70	223
Connecticut	do	Last 6 vols.	635	380	250,000	4 50	6 30	110
Delaware (Houston)	James & Webb	All 4 vols.	687	380	265,000	10 00	13 20	340
Florida	Reporter.	Last 6 vols.	794	350	280,000	6 00	7 50	150
Georgia	do	Last 6 vols.	761	390	300,000	7 00	8 00	166
Illinois	do	Last 6 vols.	721	370	267,000	2 25	2 95†
Indiana	do	Last 6 vols.	664	370	250,000	3 50	4 90	63
Iowa	Mills & Co.	Last 6 vols.	762	380	290,000	5 00	6 00	100
Kansas	Reporter.	Last 6 vols.	721	407	295,000	3 00	3 55	18
Kentucky (Bush)	J. P. Morton & Co.	Last 6 vols.	877	370	325,000	5 00	5 35	78
Louisiana	F. F. Hansell.	Last 6 vols.	929	515	480,000	8 50	6 20	106
Maine	Dresser, McLellan & Co.	Last 6 vols.	663	407	270,000	4 00	5 15	71
Maryland	Reporter.	Last 6 vols.	721	360	260,000	5 00	6 70	123
Massachusetts	Houghton, Osgood & Co.	Last 6 vols.	690	430	300,000	3 25	3 80	26
Michigan	State	Last 6 vols.	677	390	265,000	3 00	4 00	33
Minnesota	Reporter.	Last 6 vols.	606	360	220,000	5 00	7 95	165
Mississippi	do	Last 6 vols.	899	390	350,000	6 00	6 00	100
Missouri	Ramsay, Millett & Co.	Last 6 vols.	696	407	285,000	3 00	3 70	23
Missouri Appeals	F. H. Thomas & Co.	All 3 vols.	670	360	245,000	5 00	7 15	171
Montana	Reporter	Both vols.	717	380	275,000	6 00	7 60	183
Nebraska	Mills & Co.	Last 6 vols.	591	360	215,000	2 50	4 07	35
Nevada	A. L. Bancroft & Co.	Last 6 vols.	485	390	190,000	2 50	4 60	53

* This table was prepared in June, 1879, and as six volumes of OTTO were then published, the last six volumes of other sets were taken as a basis of comparison. The price of OTTO'S REPORTS, as here given, is that which is to be charged from the present volume (OTTO, Vol. 10, or United States Supreme Court Reports, Vol. 100).

† Wallace was published at \$6, and afterward at \$5, per volume. Separate volumes are now sold at the latter price. A set of 23 volumes is sold for \$69; and this, the lowest wholesale price, is the one here taken for comparison.

‡ This is five cents cheaper per volume than OTTO'S REPORTS; but comparison will show that the latter are printed on much better paper and are better bound than the Illinois Reports.

Comparison of Otto's Reports with other reports, &c.—Continued.

Report.	Publisher.	Volumes taken as a basis of calculation.	Average number of pages to a volume.	Average number of words to a page.	Average number of words to a volume.	Selling price.	Proportionate price as it would be if the vol. contained as much as Otto's.	Per cent. proportionately dearer than Otto's.
New Hampshire.....	J. B. Sanborn & Co.....	Last 6 vols.	668	576	385,000	\$4 50	\$4 10	36
New Jersey Law.....	State.....	Last 6 vols.	647	370	240,000	4 50	6 50	116
New Jersey Equity.....	do.....	Last 6 vols.	671	370	250,000	3 50	4 90	63
New York Ct. of Appeals.	A. B. Banks.....	Last 6 vols.	739	350	260,000	2 50*	3 37	12
New York (Barbour).....	W. C. Little & Co.....	Last 6 vols.	717	370	265,000	4 50	5 90	96
New York (Howard's Practice Reports).....	William Gould & Son....	Last 6 vols.	656	396	260,000	3 00	4 00	33
New York (Abbott's Practice Reports).....	Ward & Peloubet.....	Last 6 vols.	587	370	220,000	5 00	8 00	166
New York Superior Court Reports.....	do.....	Last 6 vols.	620	330	205,000	6 00	10 25	241
North Carolina.....	State.....	Last 6 vols.	695	350	245,000	4 50	6 40	113
Ohio.....	do.....	Last 6 vols.	745	350	260,000	2 50	3 37	12
Oregon.....	A. L. Bancroft & Co.....	Last 6 vols.	512	400	205,000	4 50	7 65	191
Pennsylvania.....	Kay & Bro.....	Last 6 vols.	585	610	355,000	4 50	4 45	48
Rhode Island.....	Reporter.....	Last 6 vols.	681	418	285,600	5 50	6 75	125
South Carolina.....	R. L. Bryan.....	Last 6 vols.	570	480	275,000	5 00	6 35	111
Tennessee.....	Reporter.....	Last 6 vols.	684	300	205,000	3 50	5 90	196
Texas.....	E. H. Cushing.....	Last 6 vols.	744	385	290,000	5 50	6 60	120
Texas Court of Appeals.	F. H. Thomas & Co.....	All 4 vols.	758	408	310,000	5 00	5 60	83
Vermont.....	Reporter.....	Last 6 vols.	727	444	325,000	4 00	4 30	43
Virginia (Grattan).....	State.....	Last 6 vols.	980	306	300,000	6 00	7 00	133
West Virginia.....	do.....	Last 6 vols.	833	342	285,000	3 50	4 25	41
Wisconsin.....	Callaghan & Co.....	Last 6 vols.	751	350	265,000	2 50	3 70	23

* The average price of the volumes from Vol. 1 to Vol. 68 is here taken for fair purposes of comparison. The actual contract price on late volumes is now 48 cents, but this is a temporary result of bitter rivalry among publishers, and is so far below cost that it is already the source of trouble and litigation to the State.

WASHINGTON CITY,
January 12, 1880.

MY DEAR SIR: Inclosed I send you the letter of Messrs. Little, Brown & Co. to me. Please read it and hand it to Mr. Thurman, to be submitted to the Judiciary Committee of the Senate.

Very respectfully, yours,

NATHAN CLIFFORD.

Hon. DAVID DAVIS,
United States Senate.

LITTLE, BROWN & COMPANY,
254 Washington Street, Boston, January 10, 1880.

DEAR SIR: In answer to your recent inquiry, we beg to inform you that we will meet the wishes of the court and bar, by reducing the price of the "United States Supreme Court Reports," commencing with volume 100, to \$3 a volume.

Hoping this will prove entirely satisfactory,

We are, yours, very respectfully,

LITTLE, BROWN & Co.

Hon. NATHAN CLIFFORD.